

AMENDED IN ASSEMBLY SEPTEMBER 5, 2003

AMENDED IN ASSEMBLY SEPTEMBER 2, 2003

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN ASSEMBLY JULY 3, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 28, 2003

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**SENATE BILL**

**No. 551**

**Introduced by Senator Speier**  
(Coauthor: Assembly Member Lieber)

February 20, 2003

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An act to add Section 758.5 to the Insurance Code, relating to auto insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 551, as amended, Speier. Insurance: automotive repair dealers.

Existing law generally regulates insurers by, among other things, defining certain unlawful practices.

This bill would codify existing regulatory law and would prohibit an insurer from requiring that an automobile be repaired at a specific automotive repair dealer, as defined. It would also prohibit an insurer from suggesting or recommending that an automobile be repaired at a specific automotive repair dealer unless the claimant requested the referral or the claimant is informed, in writing, of his or her rights, as specified. This bill would also require the insurer, if the suggestion or recommendation that an automobile be repaired at a specific automotive repair dealer is contained in the insurance contract, to

disclose that provision, in writing at specified times, and would prohibit the insurer, if the insured chooses the automotive repair dealer, from limiting or discounting the reasonable repair costs, as specified.

The bill would grant the Insurance Commissioner specified enforcement powers with respect to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 758.5 is added to the Insurance Code, to  
2 read:

3 758.5. (a) No insurer shall require that an automobile be  
4 repaired at a specific automotive repair dealer, as defined in  
5 Section 9880.1 of the Business and Professions Code.

6 (b) (1) No insurer shall suggest or recommend that an  
7 automobile be repaired at a specific automotive repair dealer  
8 unless either of the following applies:

9 (A) A referral is expressly requested by the claimant.

10 (B) The claimant has been informed in writing of the right to  
11 select the automotive repair dealer.

12 (2) If the recommendation is accepted by the claimant, the  
13 insurer shall cause the damaged vehicle to be restored to its  
14 condition prior to the loss at no additional cost to the claimant other  
15 than as stated in the policy or as is otherwise allowed by law. If the  
16 recommendation of an automotive repair dealer is done orally, and  
17 if the oral recommendation is accepted by the claimant, the insurer  
18 shall provide the information contained in this paragraph, as noted  
19 in the statement below, to the claimant at the time the  
20 recommendation is made. The insurer shall send the written notice  
21 required by this paragraph within five calendar days from the oral  
22 recommendation. The written notice required by this paragraph  
23 shall include the following statement plainly printed in no less than  
24 10-point type:

25 “WE ARE PROHIBITED BY LAW FROM REQUIRING THAT  
26 REPAIRS BE DONE AT A SPECIFIC AUTOMOTIVE REPAIR  
27 DEALER. YOU ARE ENTITLED TO SELECT THE AUTO  
28 BODY REPAIR SHOP TO REPAIR DAMAGE COVERED BY  
29 US. WE HAVE RECOMMENDED AN AUTOMOTIVE  
30 REPAIR DEALER THAT WILL REPAIR YOUR DAMAGED



1 VEHICLE. IF YOU AGREE TO USE OUR RECOMMENDED  
2 AUTOMOTIVE REPAIR DEALER, WE WILL CAUSE THE  
3 DAMAGED VEHICLE TO BE RESTORED TO ITS  
4 CONDITION PRIOR TO THE LOSS AT NO ADDITIONAL  
5 COST TO YOU OTHER THAN AS STATED IN THE  
6 INSURANCE POLICY OR AS OTHERWISE ALLOWED BY  
7 LAW. IF YOU EXPERIENCE A PROBLEM WITH THE  
8 REPAIR OF YOUR VEHICLE, PLEASE CONTACT US  
9 IMMEDIATELY FOR ASSISTANCE.”

10  
11 (c) ~~Notwithstanding~~ *Except as provided in subparagraph (A)*  
12 *of paragraph (1) of subdivision (b)*, after the claimant has chosen  
13 an automotive repair dealer, the insurer shall not suggest or  
14 recommend that the claimant select a different automotive repair  
15 dealer.

16 (d) Any insurer that, by the insurance contract, suggests or  
17 recommends that an automobile be repaired at a particular  
18 automotive repair dealer shall also do both of the following:

19 (1) Prominently disclose the contractual provision in writing to  
20 the insured at the time the insurance is applied for and at the time  
21 the claim is acknowledged by the insurer.

22 (2) If the claimant elects to have the vehicle repaired at the shop  
23 of his or her choice, the insurer shall not limit or discount the  
24 reasonable repair costs based on charges that would have been  
25 incurred had the vehicle been repaired by the insurer’s chosen  
26 shop.

27 (e) For purposes of this section, “claimant” means a first party  
28 claimant or insured, or a third party claimant who asserts a right  
29 of recovery for automotive repairs under an insurance policy.

30 (f) The powers of the commissioner to enforce this section shall  
31 include those granted in Article 6.5 (commencing with Section  
32 790) of Chapter 1 of Part 2 of Division 1.

